

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

FREDA I. DEMENT
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-82
Case No. 70-20

S.S.A. No.

LITTON PRECISION PRODUCTS
(Employer)

Employer Account No.

The employer appealed from Referee's Decision No. S-31427 which affirmed a determination and ruling of the Department to the effect that the claimant had voluntarily left her most recent work with good cause and was not disqualified for benefits under section 1256 of the Unemployment Insurance Code; that the employer's reserve account was not relieved of benefit charges under section 1032 of the code; and that the claimant was not ineligible under section 1264 of the code on the ground that the claimant was the major support of her family. Written argument was submitted by the employer. The claimant and the Department did not submit such argument.

STATEMENT OF FACTS

The claimant worked for the employer from March 20, 1967 until August 15, 1969. At the time of termination, she was a fabric processor working the first shift and earning \$2.45 an hour. She gave the employer approximately two weeks' notice, advising it she was voluntarily leaving her employment to move to Northern California with her husband.

OVERRULED

092-09149

The claimant's husband has been suffering from a heart condition since March 1969. He has been treated by a doctor at various periods. Since June 1969 he has been unable to work. Prior to that he was a construction worker earning \$4.80 an hour and averaging \$7,000 to \$8,000 a year in income.

The claimant advised her industrial relations assistant that her husband's doctor suggested he move to a "clearer climate." In her testimony the claimant stated the doctor did not advise her husband to move, but rather, asked why he did not take a long vacation. In response to an interrogatory submitted by the employer's representative, the claimant stated that her husband "would have insisted going North" even if she had not agreed. Neither the claimant nor her husband had intervening employment to the date the claimant filed her claim for benefits.

Shortly before the claimant left her work, she and her husband sold their residence located in the Simi Valley and realized therefrom the approximate amount of \$3,000. They deposited this sum in their joint checking account and then paid therefrom the sum of \$1,500 for the purchase of a house trailer and the sum of \$500 to pay doctor, dental and hospital bills. In addition, they used approximately \$100 to make payments on their truck which was used to haul their trailer. At the time the claimant left work she and her husband had a balance of approximately \$900 in the checking account.

The claimant and her husband had a joint savings account in the amount of approximately \$900 which had been accumulated from the earnings of both. However, the husband testified that his wife contributed the major portion of this sum because she was steadily employed whereas the husband's employment was intermittent due to poor health.

The claimant received the sum of \$288 at the time she left work which consisted of one week's salary, vacation pay, balance due from her credit union account and sums received from the proceeds of United States savings bonds.

OVERRULED

The claimant's husband filed a claim for unemployment compensation disability benefits and beginning in June 1969 was paid the sum of \$87 per week in benefits. The claimant's husband had continued to draw this sum through the date of the hearing on November 20, 1969.

The claimant and her husband moved to Redding, California, on September 3, 1969. Redding is more than 500 miles from the claimant's place of employment. She filed a claim for benefits effective September 14, 1969.

REASONS FOR DECISION

Section 1256 of the Unemployment Insurance Code provides that a claimant is disqualified for benefits and sections 1030 and 1032 of the code provide that an employer's reserve account may be relieved of benefit charges, if it is found that the claimant voluntarily left her most recent work without good cause.

We agree with the referee that the claimant voluntarily left her most recent work with good cause when she left to accompany her husband. (Appeals Board Decision No. P-B-26)

Section 1264 of the Unemployment Insurance Code provides that unless a claimant is the sole or major support of his or her family at the time of voluntarily leaving work and at the time of filing a claim for benefits, an employee who leaves his or her employment to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment is ineligible for unemployment insurance benefits.

Section 1264-1, Title 22, California Administrative Code, provides in part:

"(d) 'Major support' of a family shall be presumed to be the family members, in the order provided below:

OVERRULED

- (1) The husband or father
- (2) The wife or mother in any family in which there is no husband or father.

"Notwithstanding the above provisions, in any case in which a member of a family as defined above can show that he or she is providing the major means of support (more than one-half) then that individual shall be deemed the major support of the family. No more than one person may be the major support of the family."

Section 2601 of the Unemployment Insurance Code contained in Part 2, Disability Compensation, provides:

"The purpose of this part is to compensate in part for the wage loss sustained by individuals unemployed because of sickness or injury and to reduce to a minimum the suffering caused by unemployment resulting therefrom. This part shall be construed liberally in aid of its declared purpose to mitigate the evils and burdens which fall on the unemployed and disabled worker and his family."

The claimant's husband was paid the sum of \$87 per week in unemployment compensation disability benefits beginning in June 1969 through the date that the claimant left her work and continuing through the date that the claimant filed her claim for unemployment insurance benefits and continuing to the date of the hearing before the referee on November 20, 1969. These benefits were paid to compensate, in part, for the wage loss suffered by the claimant's husband and were used to support the husband's family, which included the claimant. These benefits were the only income received by the claimant and/or her husband from the time that the claimant left her work. We therefore hold that the claimant's husband was the major support of the family at the time the claimant filed her claim for benefits, and that the claimant is ineligible for benefits under section 1264 of the code.

OVERRULED

DECISION

The decision of the referee is modified. The claimant is not disqualified for benefits under section 1256 of the Unemployment Insurance Code and the employer's reserve account is not relieved of benefit charges under section 1032 of the code. The claimant is ineligible for benefits under section 1264 of the code.

Sacramento, California, July 28, 1970

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

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DON BLEWETT

OVERRULED